

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton;  
Tony Hammond; and  
Robert G. Taub

Competitive Product Prices  
Global Reseller Expedited Package Contracts 1  
(MC2010-21)  
Negotiated Service Agreement

Docket No. CP2012-21

ORDER APPROVING AN ADDITIONAL GLOBAL RESELLER EXPEDITED PACKAGE  
CONTRACT NEGOTIATED SERVICE AGREEMENT

(Issued May 9, 2012)

I. INTRODUCTION

The Postal Service seeks to include a Global Reseller Expedited Package (GREP) contract (Agreement) within the GREP Contracts 1 product established in a previous case.<sup>1</sup> For the reasons discussed below, the Commission approves the request.

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<sup>1</sup> Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, April 27, 2012 (Notice). The Notice was filed pursuant to 39 CFR 3015.5.

## II. BACKGROUND

*Product information.* The GREP Contracts 1 product encompasses agreements with resellers who market Express Mail International (EMI) and Priority Mail International (PMI) at discounted prices to their customers, especially small- and medium-size businesses. Notice at 4. The instant Agreement is scheduled to become effective once all regulatory approvals are obtained, and will remain in effect until either party terminates it. *Id.*, Attachment 1 at 5.

Governors' Decision No. 10-1 authorizes prices and classifications not of general applicability for GREP agreements.<sup>2</sup> GREP Contracts 1 (Docket Nos. MC2012-21 and CP2010-36) was added to the competitive product list by Order No. 445, which also established the agreement in Docket No. CP2010-36 as the baseline for comparing potentially functionally equivalent agreements under the GREP Contracts 1 grouping.<sup>3</sup> In Docket No. CP2011-65, pursuant to Order No. 445, the Postal Service requested, and the Commission approved, the inclusion within GREP Contracts 1 of a renewal of the Docket No. CP2010-36 agreement.<sup>4</sup>

*Procedural history.* On April 27, 2012, the Postal Service filed the Notice stating that it was entering into an additional GREP contract. In Order No. 1325, the Commission provided notice of the Postal Service's filing, identified the supporting public and non-public material, appointed a Public Representative, and provided interested persons with an opportunity to comment.<sup>5</sup>

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<sup>2</sup> The referenced Governors' Decision appears as Attachment 3 to the Notice. It was originally filed in Docket No. CP2010-36.

<sup>3</sup> See Docket Nos. MC2010-21 and CP2010-36, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, April 22, 2010 (Order No. 445).

<sup>4</sup> See Docket No. CP2011-65, Order No. 755, Order Approving Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, June 30, 2011.

<sup>5</sup> Notice and Order Concerning an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, April 30, 2012 (Order No. 1325).

### III. THE POSTAL SERVICE'S POSITION

The Postal Service states that the instant Agreement is in accordance with Order No. 445. *Id.* at 1. It reviews the reasons that it believes the instant Agreement fits within the Mail Classification Schedule language for GREP Contracts 1. *Id.* at 3. It also addresses functional equivalency, including a discussion of the similarities and differences between the instant Agreement and the baseline agreement. *Id.* at 3-4. It asserts that the instant Agreement possesses similar cost and market characteristics and identical functional terms to the baseline agreement. *Id.* at 3.

The Postal Service identifies 21 differences between the instant Agreement and the baseline Agreement pertaining to revisions or clarifications of certain terms, *e.g.*, additions of definitions for EMI and PMI, minimum revenue commitment, revisions of prices, effective date, customs and export requirements, and periodic review of minimum commitment. *Id.* at 4-6. The Postal Service states that the differences affect neither the fundamental service that it is offering nor the fundamental structure of the contract. *Id.* at 6-7. It asserts that “[b]ecause the agreement incorporates the same cost attributes and methodology, the relevant characteristics of this GREP contract are similar, if not the same, as the relevant characteristics of the contract filed in Docket No. CP2010-36.” *Id.* at 4.

The Postal Service concludes that its filing demonstrates that the instant Agreement complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline contract. Therefore, it requests that the instant contract be included within the GREP Contracts 1 product. *Id.* at 3-7.

### IV. COMMENTS

The Public Representative filed comments on May 8, 2012.<sup>6</sup> No other interested person submitted comments. The Public Representative states that the instant Agreement is likely to meet the requirements of 39 U.S.C. 3633(a) and 39 CFR

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<sup>6</sup> Public Representative Comments, May 8, 2012 (PR Comments).

3015.7(c) as it fulfills the following requirements: it will not allow market dominant products to subsidize competitive products; it will ensure that each competitive product will cover attributable costs; it will enable competitive products as a whole to cover their costs. PR Comments at 1-2. The Public Representative notes the differences between the instant Agreement and the baseline agreement are generally minor except for the more substantial revision of prices in Article 7 of the instant Agreement. *Id.* at 2. However, the Public Representative states that these differences do not appear to impact the functional equivalency of the instant Agreement, which meet the standards set forth in Governors' Decision No. 10-1. *Id.* The Public Representative recommends approval of the instant Agreement. *Id.*

## V. COMMISSION ANALYSIS

*Scope and nature of review.* The Commission's responsibilities in this case are to ensure that (1) the instant Agreement is functionally equivalent to the baseline agreement; and (2) the instant Agreement satisfies the requirements of 39 U.S.C. 3633 and applicable Commission rules.

*Functional equivalence.* The Commission has reviewed the Postal Service's reasons for concluding that the instant Agreement shares similar cost and market characteristics with the baseline agreement, meets the pricing formula and classification established in Governors' Decision No. 10-1, and comports with 39 U.S.C. 3633 and the Commission's rules. It has also considered the Public Representative's views. It agrees that the instant Agreement and the baseline agreement are substantially similar and that any differences between the two do not undermine a finding of functional equivalency. The Commission therefore concludes that the instant Agreement may be included in the GREP Contracts 1 product.

*Cost considerations.* The financial data the Postal Service has filed supports the conclusion that the prices for the instant Agreement satisfy the three requirements in 39 U.S.C. 3633(a), as addressed below.

The Commission has reviewed the Notice, supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the instant Agreement should cover its attributable costs, as required by 39 U.S.C. 3633(a)(2). It finds that the Agreement should not result in competitive products being subsidized by market dominant products as prohibited by 39 U.S.C. 3633(a)(1). It also finds the Agreement should have a positive effect on competitive products' contribution to institutional costs, consistent with 39 U.S.C. 3633(a)(3). Accordingly, a preliminary review of the instant Agreement indicates that it is consistent with the provisions applicable to rates for competitive products. The Commission therefore finds that the instant Agreement is appropriately included within the GREP Contracts 1 product.

*Follow-up submissions.* The Postal Service shall promptly notify the Commission of the effective date of the instant Agreement. Upon termination of the instant Agreement by either party, the Postal Service shall inform the Commission of this development. In addition, within 30 days of the termination of the instant Agreement, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the contract, including any penalties paid.

## VI. ORDERING PARAGRAPHS

*It is ordered:*

1. The Agreement filed in Docket No. CP2012-21 is included within the Global Reseller Expedited Package Contracts 1 (MC2010-21) product.
2. The Postal Service shall promptly notify the Commission of the effective date of the instant Agreement.
3. The Postal Service shall notify the Commission upon termination of the instant Agreement by either party in accordance with the terms set out in the body of this Order.

4. Within 30 days of the termination of the instant Agreement, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the contract, including any penalties paid.

By the Commission.

Shoshana M. Grove  
Secretary